



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,545	03/28/2001	Ron H. Niswander	43050	5242

7590 12/29/2003

John W. Jones
Locke Liddell & Sapp LLP
3400 Chase Tower
600 Travis Street
Houston, TX 77002-3095

EXAMINER

KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
----------	--------------

1732

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,545

Applicant(s)

NIS WANDER

Examiner

KUHNS

Group Art Unit

1732

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on OCT. 6, 2003
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2.Claims 1, 3 and 5-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/25985 (Horn et al.) as set forth in the rejection of claims 1, 3 and 5-9 in the previous Office action. It is submitted that the aspects of claims 10-15 are within the purview of Horn et al., based on the disclosure beginning at page 34, line 36.

3.Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/25985 as applied to claims 1, 3 and 5-15 above, and further in view of Clatty as set forth in the previous Office action.

4.Applicant's arguments filed October 6, 2003 have been fully considered but they are not persuasive. Applicant's comments concerning Horn (6,169,124) and 102 (e) are noted by the examiner. The relevance of these comments is unclear since the rejection is based on WO 98 25985.

Applicant provides a definition for fatty acid and argues that Horn fails to disclose a polyurethane-forming mixture containing a fatty acid condensation product. The examiner disagrees because the cited reference refers to amine salts of fatty acids at page 34 in the passage beginning at line 36.

Applicant states that it is true that Horn discloses the use of oleic acid but not as an internal mold release agent and not as a fatty acid condensation product in a

Art Unit: 1732

polyurethane forming mixture. The latter aspect has been addressed in the immediately preceding paragraph. In addition, the instant claims only require the presence of a fatty acid condensation product in the composition, and, in any event, it is submitted that once present, such compound would inherently function as an internal mold release agent.

Applicant further argues that Horn does not disclose an "IMR-enhancer compound". Applicant states that while Horn does make a shotgun disclosure that "synthetic lubricants based on aromatic or aliphatic hydrocarbons or mineral oils" may be used in combination with a mold release agent, Horn fails to disclose the ability of the claimed IMR enhancer compound to "reduce the force to remove the molded foam article from the mold". First of all, it is unclear what about this disclosure would cause it to be labeled "shotgun". In addition, since one of ordinary skill in the art is informed of a suitable combination of constituents in the context of mold release, it is submitted that one of ordinary skill in the art would infer from that disclosure that such suitable combination would tend to reduce the force necessary to remove the molded article from the mold; otherwise, it really would not be a suitable or worthwhile combination.

Applicant's comments concerning the Clatty reference are noted by the examiner, but it is still the examiner's position that Clatty teaches what it is being relied upon to teach.


5.THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1732

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaiaanni, can be reached on (571) 272-1196.


ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732
12-22-03